

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>Dwayne Brooks,</b>	)	<b>Case No. 1:24-CV-1590</b>
	)	
<b>Plaintiff,</b>	)	<b>Judge Dan Aaron Polster</b>
	)	
<b>vs.</b>	)	
	)	
<b>City of Cleveland, <i>et al.</i>,</b>	)	
	)	
<b>Defendants.</b>	)	

---

---

**JOINT STATUS REPORT**

---

---

This case is scheduled for a Status Conference on May 28, 2025, at 1:00 p.m. This Court ordered a joint status report in advance of the Status Conference. The Parties so respond:

**I. Procedural History and Pending Motions:**

Plaintiff Dwayne Brooks filed the Complaint alleging federal and state claims against ten different defendants. (Doc# 1). The Defendants are the City of Cleveland and its former police officers, Edward Kovacic; Gregory Kunz; James Cudo; Jack Bornfield; Dennis Murphy; John James; John Fransen; John Kaminski; and Robert Tolliver. Brooks amended the Complaint. (Doc# 5, PageID# 57). The Defendants answered. (Doc# 7 and 8).

This Court held a Case Management Conference. (Non-Document Order date January 27, 2025). This Court set a deadline to amend the pleadings for April 18, 2025. This Court also set a fact and damages discovery cut-off for September 30, 2025.

On May 19, 2025, the City of Cleveland moved for judgment on pleadings on all claims. (Doc# 28, PageID# 290). On the same day, the Individual Officers moved for judgment on the pleadings on some claims. (Doc# 29, PageID# 321).

Brooks has not yet filed any opposition to these motions.

## **II. Written Party Discovery:**

The Parties exchanged initial disclosures under Fed. R. Civ. P. 26.

Brooks propounded interrogatories and requests for documents upon Defendant City of Cleveland. Cleveland responded to Plaintiff's discovery requests.

The Individual Officers propounded interrogatories and requests for documents to Plaintiff. Plaintiff anticipates responses to interrogatories within the next week, but will need an additional 30 days to conduct an extensive review of voluminous documents to redact privileged information.

Plaintiff propounded interrogatories and requests for documents to the Individual Officers. The Individual Officers estimate having written responses prepared within the next few weeks, but they may need some additional time to obtain executed verification pages.

## **III. Written Non-Party Discovery:**

The Individual Officers issued subpoenas to the following third-parties:

- The Cuyahoga County Prosecutor's Office: The Prosecutor recently responded to the subpoenas. Copies of this production have been produced to all parties.
- The Ohio Department of Rehabilitation and Corrections: The ODRC responded to these subpoenas. Copies of this production have been produced to all parties.
- Robert Viancort: Mr. Viancort was served a month ago. To date, no response has been received for this subpoena.

- Global Tel Link, Inc.: GTL responded to the subpoena. Copies of this production have been produced to all parties. However, the Parties are attempting to resolve a discovery dispute pertaining to these records.
- Friedman, Gilbert & Gerhardstein: FGG responded to the subpoena by indicating they had no responsive documents.
- Federal Bureau of Investigation: The Defendants issued a *Touhy* subpoena to the FBI. The FBI has not yet responded.

Based on documents reviewed to date, the Defendants anticipate issuing additional subpoenas to third parties.

**IV. Depositions:**

The Parties have been obtaining and analyzing tens of thousands of documents, transcripts, recordings, exhibits, etc. etc. The Parties have not yet begun scheduling depositions.

**V. Potential Party Discovery Disputes:**

The Defendants subpoenaed recorded jail phone calls pertaining to three different individuals; Plaintiff Brooks, eyewitness Samuel Philpot, and eyewitness Kelly Wingo. GTL responded to the subpoenas and produced the requested information. Plaintiff objects to the subpoenas as being beyond the scope of discovery, overbroad, invasive, and they may implicate attorney client privilege. The Parties must meet and confer on this discovery dispute. If no resolution is reached, the Parties may bring the issue before the Court.

**VI. Other Issues:**

The Parties identified over 60 individuals knowledgeable with information pertaining to this case. Further, while Defendants are not seeking a stay of discovery while the motion is pending, Defendants anticipate that the pending motions will eliminate many of the claims,

particularly those against the City of Cleveland. Considering the voluminous documents, amount of potential witnesses, and the pending motions, the Parties suspect that the current fact discovery cut-off of September 30, 2025, may be ambitious. The Parties are not necessarily seeking an extension of the fact discovery deadline at this time, but any extension is inevitable.

Respectfully submitted,

/s/ Sarah Gelsomino

Marcus Sidoti (0077476)  
Sarah Gelsomino (0084340)  
Elizabeth Bonham (0093733)  
Jacqueline Greene (0092733)  
Friedman Gilbert + Gerhardstein  
50 Public Square, Suite 1900  
Cleveland, OH 44113  
Telephone: (216) 241-1430  
Email: [marcus@fggfirm.com](mailto:marcus@fggfirm.com)  
[sarah@fggfirm.com](mailto:sarah@fggfirm.com)  
[elizabeth@fggfirm.com](mailto:elizabeth@fggfirm.com)  
[jacqueline@fggfirm.com](mailto:jacqueline@fggfirm.com)

*Attorneys for Plaintiff*

Mark D. Griffin (0064141)

Director of Law

/s/ Matthew R. Aumann

William Menzalora (0061136)  
Chief Assistant Director of Law  
Matthew R. Aumann (0093612)  
Dylan F. Ford (0101464)  
Assistant Directors of Law  
City of Cleveland, Department of Law  
601 Lakeside Avenue E., Room 106  
Cleveland, Ohio 44114  
Telephone: (216) 664-2800  
Email: [wmenzalora@clevelandohio.gov](mailto:wmenzalora@clevelandohio.gov)  
[maumann@clevelandohio.gov](mailto:maumann@clevelandohio.gov)  
[dford5@clevelandohio.gov](mailto:dford5@clevelandohio.gov)

*Attorneys for Defendant City of Cleveland*

/s/ Kenneth A. Calderone

Kenneth A. Calderone (0046860)  
John D. Latchney (0046539)  
Hanna, Campbell & Powell, LLP  
3737 Embassy Parkway, Suite 100  
Akron, OH 44333  
Telephone: (330) 670-7324 / (330) 670-7602  
Facsimile: (330) 670-7602 / (330) 670-7458  
Email: [kcladerone@hcplaw.net](mailto:kcladerone@hcplaw.net)  
[jlatchney@hcplaw.net](mailto:jlatchney@hcplaw.net)

*Attorneys for Officer Defendants*